

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

JOSEPH and NINA ROTELLO,)	
)	
Plaintiffs,)	
)	
v.)	No. 3:03-CV-573
)	(VARLAN/SHIRLEY)
CLAYTON HOMES OF DELAWARE, INC.,)	
BERKSHIRE HATHAWAY INC.,)	
CMH SERVICES, INC.,)	
CMH MANUFACTURING, INC.,)	
CMH HOMES, INC., CMH INSURANCE)	
AGENCY, INC., and GEORGE SNYDER,)	
)	
Defendants.)	

MEMORANDUM & ORDER

This matter is before the undersigned pursuant to 28 U.S.C. § 636(b), the Rules of this Court, and by Order [Docs. 94, 97] of the Honorable Thomas A. Varlan, United States District Judge, for disposition of attorney George Underwood's Motion to Be Withdrawn as Attorney of Record [Doc. 92]; the Clayton Defendants' Motion for Sanctions [Doc. 93]; and Defendant George Snyder's Motion for Sanctions [Doc. 95]. The undersigned conducted a hearing on these motions on May 9, 2006.

Attorney George Underwood filed a motion [Doc. 92], seeking to withdraw as counsel of record. At the motion hearing, Mr. Underwood indicated that he would remain counsel of record and that he wished to withdraw his motion. Accordingly, the Motion to Be Withdrawn as Attorney of Record [Doc. 92] is deemed **WITHDRAWN**.

The Clayton Defendants and George Snyder both move for an Order imposing sanctions against the plaintiffs for failing to attend their depositions. [Docs. 93, 95]. Specifically, the defendants seek an Order dismissing the plaintiffs' claims with prejudice, or in the alternative, barring the plaintiffs from producing any evidence in support of their claims. In the event that the Court does not dismiss the plaintiffs' claims, the defendants ask that the plaintiffs be ordered to immediately appear for their depositions.

For good cause shown, the defendants' motions for sanctions [Docs. 93, 95] are **GRANTED** to the extent that the plaintiffs are hereby **ORDERED** to make themselves available for depositions at the earliest opportunity. Mr. Rotello was present at the hearing and stated that he would make himself available for deposition. The parties agreed to take Mr. Rotello's deposition as well as other depositions during the week of June 12, 2006.

The defendants' requests for monetary sanctions and/or for dismissal of the plaintiffs' claims [Docs. 93, 95] are **DENIED** at this time. However, the plaintiffs are hereby put on notice that failure to cooperate in discovery and to follow the Orders of this Court in the future may result in monetary sanctions and possibly the dismissal of this lawsuit. See Fed. R. Civ. P. 37(b)(2)(C).

IT IS SO ORDERED.

ENTER:

s/ C. Clifford Shirley, Jr.
United States Magistrate Judge